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C O N F I D E N T I A L SECTION 01 OF 03 TORONTO 003042

SIPDIS

E.O. 12958: DECL: 11/23/2015

TAGS: PREL PBTS ELTN PGOV CA

SUBJECT: PROPOSED DETROIT WINDSOR TUNNEL TAKEOVER EXCITES

SIGNIFICANT OPPOSITION

REF: TORONTO 2778

Classified By: Consul General Jessica Lecroy for reasons 1.4 (b) and (d).).

11. (C) SUMMARY: Serious opposition on both sides of the border has been sparked by the Detroit International Bridge Company (DIBC) late October proposal to give Detroit \$30 million in exchange for control of the U.S. side of the Detroit Windsor Tunnel and purchase of 10 acres of land to construct a new super plaza for border inspections at the foot of the Ambassador Bridge. The Detroit and Canada Tunnel Corporation has been working behind the scenes with Detroit City Councilors to derail the proposed operational takeover of the tunnel. The Canadian federal government has formally expressed concerns about the proposed super plaza and tunnel takeover. On November 18 the Detroit City Council passed a resolution also expressing serious reservations about the proposal. It is not clear how serious the DIBC was about gaining operational control of the U.S. side of the tunnel. It seems likely, however, that bridge owners will continue their push to construct a twin bridge span across the Detroit River, which would present serious challenges to officials on the Canadian side of the border. END SUMMARY.

12. (C) The chess game to control the primary border crossings between Detroit and Windsor has continued behind the scenes for the past few weeks. Reftel described the offer by the Ambassador Bridge owners to give the City of Detroit \$20 million for the right to control the lease for the U.S. side of the Detroit Windsor Tunnel beginning in 2020, and \$10 million to purchase from the city 10 acres at the foot of the bridge that would enable construction of a 200-acre super inspection plaza for U.S. and Canadian border enforcement officials (with capacity for 100 U.S. and 100 Canadian inspection booths). The proposal, which reportedly also includes construction of some new "big box" retail outlets in Detroit, was publicly unveiled a few weeks before the Detroit City Mayor election, though Ambassador Bridge officials have reportedly been discussing the super plaza proposal since June.

13. (C) On November 22, Neal Belitsky (protect), Executive Vice President and General Manager at the Detroit and Canada Tunnel Corporation (DCTC), told the Consul General that his company, which manages tunnel operations for the cities of Detroit and Windsor, has been quietly working with the Detroit City Council to derail the Ambassador Bridge proposal. He noted that the council had not been informed of the proposal before its public release.

14. (SBU) In late October Deputy Prime Minister and Minister of Public Safety and Emergency Preparedness Canada, Anne McLellan, sent a letter to Windsor Mayor Eddie Francis expressing concerns about the proposed super plaza. McLellan wrote that Canadian Customs and Border Services Agency personnel could not operate at the proposed super plaza on U.S. soil under current Canadian law or agreement with the U.S. She added: "We are not seeking such an arrangement in Windsor-Detroit.8

15. (C) Belitsky outlined the DCTC's six basic concerns with the Ambassador Bridge proposal. He:

--questioned whether a private entity should exercise virtual control over the primary border crossings between Detroit and Windsor;

--noted that having one &superscript 8 plaza for border inspections eliminates redundancy;

--acknowledged that the City of Detroit can decide what to do with the lease on the Detroit Windsor Tunnel, but argued that decision-making process should be transparent, not made behind closed doors;

--observed that no details have yet been provided for traffic flow between the tunnel and the proposed super plaza at the foot of the Ambassador Bridge;

--noted that the tunnel currently connects downtown Detroit and Windsor (NOTE: Forcing tunnel traffic to travel directly to the proposed super plaza and exit into the U.S. from there

would isolate downtown Detroit. END NOTE);

--argued that, for life safety reasons, it is important for the tunnel to be operated by a single entity (NOTE: The City of Windsor vehemently opposes the Ambassador Bridge's plan, which makes it likely that, if Detroit agrees to give the tunnel lease to the Ambassador Bridge Company, the tunnel would end up being managed by two separate operators. Belitsky observed having multiple tunnel operators has contributed to delayed public safety reactions during emergencies such as recent tunnel fires in Europe. END NOTE).

16. (C) On November 15, Belitsky said the Detroit law firm of Honigman, Miller, Schwartz, and Cohn, L.L.P., on behalf of the Canadian government, sent a letter to the Detroit Mayor and City Council expressing concerns with the Ambassador Bridge proposal and requesting consultations before the Council formally considers the Ambassador Bridge proposal (text contained in para 9).

17. (C) On November 18, the Detroit City Council passed a resolution expressing serious reservations about the Ambassador Bridge proposal. The resolution says:

&...the Detroit City Council stands united against this and any future proposal that is not in the best economic interests of the City of Detroit and that fails to recognize and take into consideration the critical implications such an agreement would have on this most important international border and upon the flow of people and commerce across both sides of the border.⁸

The resolution demands additional details and time for the Council to perform due diligence on the proposal. It also notes the intent of the City Council to consult with local citizens, the U.S. federal government, Michigan officials, the City of Windsor, the province of Ontario, and the Canadian federal government. After passing this resolution the Detroit City Council went on recess until January.

18. (C) COMMENT: The Ambassador Bridge proposal to construct a super plaza and take control of operations on the U.S. side of the Detroit Windsor Tunnel has excited significant opposition on both sides of the border. It is not yet clear whether the bridge company is serious about pursuing operating rights to the Detroit Windsor Tunnel or whether that aspect of their October proposal was mostly for public relations effect during the Detroit Mayoral election race. It seems likely that the bridge company will continue to pursue construction of a twin bridge span and expansion of the inspection plaza on the U.S. side of the border. This would present serious challenges to officials on the Canadian side of the border. END COMMENT.

19. (C) Text of letter from Honigman, et al to Detroit Mayor and City Council follows.

Begin Text.

Dear Mayor Kilpatrick and Council Members:

We represent the Government of Canada. We are writing regarding the so-called &Binding Agreement⁸, whereby DTW, Inc., an affiliate of the Detroit International Bridge Company, would become the &day to day manager⁸ of the U.S. side of the Detroit-Windsor Tunnel.

The owners of the Ambassador Bridge had been clear that their desire to own the Tunnel is associated with their proposal to create a new port of entry that would service both the Ambassador Bridge and the Tunnel. As you are no doubt already aware, the Government of Canada has serious concerns with the diminution of redundancy that would result from having only one port of entry. Sending 10,000 Canadians and thousands of Americans, who utilize the tunnel or bridge every day to travel from the United States to Canada, through one port of entry would be problematic if an emergency, security threat or even a traffic problem were to disrupt the operations of that one port of entry.

Furthermore, recognizing the important role that the Tunnel plays in the day-to-day lives of so many Canadians and Americans, the Government of Canada would have serious concerns with any plan that could disrupt two-way visits across our shared border.

The Canadian Government is certainly sympathetic to the budget needs of the City, and would not presume to advise the City as to how to conduct its affairs. However, it appears that the proposal under consideration from the Detroit International Bridge Company would create a monopoly and harm the public which uses the Bridge and Tunnel. We cannot ignore any action which would potentially violate the law and harm thousands of American and Canadian citizens.

Given our concerns, our preference would be to discuss this matter with the Council before you meet to consider the Binding Agreement with the Detroit International Bridge Company. You should know that if you choose to proceed with approving the binding agreement before meeting with representatives from the Government of Canada there are other options available to us including litigation.

Very truly yours,

David A. Ettinger
Honigman Miller Schwartz and Cohn LLP

End Text.
LECROY